

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to adopt new Chapter 77, “Site Development Program,” Iowa Administrative Code.

This proposed chapter implements a new site development program to increase the availability and expedite the development of sites in Iowa that may be suitable for achieving the state’s economic development objectives, specifically regarding the availability and development of potential commercial and industrial sites. The Legislature appropriated \$175,000 for the program in 2010 Iowa Acts, Senate File 2389, section 36.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on December 21, 2010. Interested persons may submit written or oral comments by contacting Matt Rasmussen, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3126; or E-mail matt.rasmussen@iowa.gov.

The Department will hold a public hearing on Tuesday, December 21, 2010, from 10 to 11 a.m. to receive comments on these rules. The public hearing will be held in the Southwest Room, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

These rules are intended to implement Iowa Code section 15E.18 as amended by 2010 Iowa Acts, Senate File 2389, section 36.

The following amendment is proposed.

Adopt the following new 261—Chapter 77:

CHAPTER 77 SITE DEVELOPMENT PROGRAM

DIVISION I GENERAL PROVISIONS

261—77.1(15E) Purposes. The purposes of the site development program are to establish an inventory of sites in Iowa that may be suitable for development or redevelopment and to provide consultation to local governments about site development techniques.

261—77.2(15E) Authority. The authority for establishing this program is provided in 2010 Iowa Acts, Senate File 2389, sections 36 and 37.

261—77.3(15E) Definitions.

“*Applicant*” means the entity that submits an application to the department for a certificate of readiness for a site development area or areas.

“*Certificate of readiness*” means a certificate issued to a local government or local economic development official for a site that is determined to be ready for development or redevelopment based on criteria set forth in rule 261—77.13(15E).

“*Department*” means the Iowa department of economic development.

“*Site development area*” means property included as part of a site development plan that is to be used or proposed to be used for development or redevelopment.

“*Site development techniques*” means environmental evaluations, property and wetland delineation, and historical evaluations.

261—77.4 to 77.10 Reserved.

DIVISION II
CERTIFICATE OF READINESS

261—77.11(15E) Eligibility. Eligible applicants may apply to the department for a certificate of readiness which verifies that a particular site is ready for development. The following eligibility criteria shall apply:

77.11(1) Minimum size. The department will evaluate only sites of 50 acres or more for a certificate of readiness.

77.11(2) Eligible applicants. Eligible applicants include local governments or local economic development officials.

261—77.12(15E) Application; review; approval.

77.12(1) Application. All requests for a certificate of readiness for a site development area shall be made using the application provided by the department. The application shall include at least the following information:

- a. Applicant information, including name, address, telephone number and contact person.
- b. Legal description of the site development area(s).
- c. Identification of the property owner(s) related to the site development area(s).
- d. Detailed site development plan(s) for the site development area(s).

77.12(2) Review. The department will review each complete application in the order the applications are received and based on the general criteria described in subrule 77.13(1). The department will evaluate each application to identify any barriers to development or redevelopment.

77.12(3) Approval. The department may approve, deny or defer applications for a certificate of readiness. If the department approves an application for a certificate of readiness, the department will issue a certificate of readiness in accordance with rule 261—77.14(15E).

261—77.13(15E) Criteria for evaluating sites.

77.13(1) General. When evaluating applications for certificates of readiness, the department may consider the following criteria:

- a. The thoroughness and detail of the site development plan.
- b. The site development plan’s regard for compliance with applicable regulations, including without limitation land-use and zoning restrictions or environmental or cultural protections.
- c. The presence of viable transportation infrastructure.
- d. The presence of viable utility infrastructure.
- e. The presence of viable vertical infrastructure, as defined in Iowa Code section 8.57, which includes existing land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails.
- f. The geologic and natural characteristics of the site development area(s) including the proximity or inclusion of any flood plains.
- g. The ownership and control of the site development area(s).
- h. Demonstrated support, including without limitation financial and local support, for the site development plan.

77.13(2) Additional criteria. In addition to the general criteria described above, the department will consider the following additional criteria:

- a. The site development plan for the site development area utilizes smart planning techniques, as identified by the smart planning task force created by 2010 Iowa Acts, Senate File 2389.
- b. The site development plan for the site development area utilizes sustainable design and practices.

(1) For purposes of these rules, sustainable practices include those practices in accordance with the department's Iowa green streets criteria, which are available on the department's Web site.

(2) For purposes of these rules, sustainable design, as defined in rule 261—65.2(15), means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants, including, but not limited to, measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments. Sustainable design standards are also known as green building standards pursuant to Iowa Code section 103A.8B.

261—77.14(15E) Certificate of readiness.

77.14(1) Certification. Upon approval of an application for a certificate of readiness, the department will issue a certificate of readiness to the applicant. The certificate of readiness will include a short description of how the site development plan meets the general criteria described in subrule 77.13(1) and will include whether the site development plan meets the additional criteria described in subrule 77.13(2) and a short discussion related thereto, if applicable. The certificate of readiness will be valid for the term described on the certificate, which may vary for each site development area depending on the nature of the development and the site characteristics. In no event shall the term of a certificate exceed ten years.

77.14(2) Recertification. The department shall not recertify site development areas for which a certificate of readiness has expired or will expire. The local government or local economic development official responsible for the site development area shall reapply for a certificate of readiness under these rules to be considered for a subsequent certificate of readiness.

261—77.15 to 77.20 Reserved.

DIVISION III
CONSULTATION

261—77.21(15E) Consultation.

77.21(1) The department shall consult with local governments and local economic development officials in regard to site development techniques. The department may contract with third parties to provide site development consultations regarding site development techniques directly to local governments and local economic development officials.

77.21(2) The department may charge a reasonable fee for consultation. A local government or local economic development official seeking assistance under subrule 77.21(1) shall make a request to the department and provide information requested by the department for use in formulating a fee estimate and work plan. The department shall provide a fee estimate to the interested local government or local economic development official and a description of the services that will be provided prior to undertaking any work. The fee shall be reasonable and shall cover the department's costs of providing the service. The department may require the local government or local economic development official to enter into a contract that identifies the services to be performed and obligates the local government or local economic development official to pay the fee to the department or a third-party consultant for satisfactory completion of services.

77.21(3) Applicants are not required to seek consultation under the program to be eligible to apply for a certificate of readiness and may seek consultation from the department at any time.

These rules are intended to implement Iowa Code section 15E.18 as amended by 2010 Iowa Acts, Senate File 2389, section 36.